

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B': NEW DELHI**

**BEFORE,  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.662/Del/2020  
(ASSESSMENT YEAR 2015-16)**

ACIT Circle-30(1) Delhi	Vs.	M/s Hare Krishna Orchid M-32, 2 <sup>nd</sup> Floor Greater Kailash-1 New Delhi-110 048 PAN-AAFFH 0792R
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. R.S. Singhvi, CA and Sh. Satyajeet Goel, CA
Department by	Sh. T. James Singson, CIT-DR

Date of Hearing	23/08/2023
Date of Pronouncement	20/10/2023

**ORDER**

**PER M. BALAGANESH AM:**

This appeal of the Revenue arises out of the order of the Learned Commissioner of Income Tax (Appeals)-10, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.10171/2017-18 dated 28/11/2019 against the order passed by Assistant Commissioner of Income Tax, Delhi, Circle-30(1), New Delhi (hereinafter referred to as the 'Ld. AO') u/s 143(3) of the Income

Tax Act (hereinafter referred to as 'the Act') on 11/12/2017 for the Assessment Year 2015-16.

2. The only effective issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the addition of Rs.4,33,18,870/- on account of unsecured loan u/s 68 of the Act in the facts and circumstances of the instant case.

3. At the outset, we find that this appeal was originally disposed of by this Tribunal vide order dated 12/08/2022, wherein the appeal of the Revenue was restored to the file of the Ld. AO. Subsequently, this Tribunal vide its order in MA 258/Del/2022 dated 10/03/2023 had recalled the earlier Tribunal order in its entirety.

4. We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of real estate construction and running of Hotel Business providing boarding and lodging facility. The return of income for the AY 2015-16 was filed by the assessee on 30/09/2015 declaring total income of Rs.24,79,360/-. The Ld. AO observed that assessee had received unsecured loans from various parties and sought for complete details of the same. The assessee furnished the details

before the Ld. AO. The Ld. AO observed that in respect of the following parties, the assessee could not prove the genuineness of the transactions and creditworthiness of the lenders and accordingly, proceeded to add the receipt of unsecured loans from the ten parties in the sum of Rs.4,33,18,870/- as unexplained cash credit u/s 68 of the Act.

<b>Sl. No.</b>	<b>Name of Entity</b>	<b>Address</b>	<b>Credit During the Year</b>	<b>Income disclosed in ITR</b>
1	Krishna Mittal		8,00,000	
2	Rita Aggarwal	77, SFS Shakti Apartment, Phase-III, Ashok Vihar, New Delhi-110052	40,00,000	7,66,004
3	Mehar Chand	12, Ground Floor, Near Laxmi Nagar Distt. Centre, Chitra Vihar, Delhi-110092	30,00,000	3,69,328/-
4	Kamlesh Rani	12, Ground Floor, Near Laxmi Nagar Distt. Centre, Chitra Vihar, Delhi-110092	45,00,000	4,38,655/-
5	Bijay Pratap Singh	L-20, South Extn.-II, Delhi- 110049	35,00,000	1,29,371/-
6	Pankaj Goel	B-177, Grater Kailash-1, New Delhi-110048	80,00,000	14,61,524/-
7	Pramod Kumar Aggarwal	77, SFS Shakti Apartment, Phase-III, Ashok Vihar, New Delhi-110052	50,00,000	9,91,826/-
8	R C Goel (HUF)	M-33, Second Floor. Greater Kailash, Part-1, New Delhi- 110048	35,18,870	2,45,918/-
9	Vaishali Gupta	12, Ground Floor, Near Laxmi Nagar Distt. Centre, Chitra Vihar, Delhi - 110092	30,00,000	4,28,336/-
10	Ajay Pratap Singh	1-20, South Extn.-II, New Delhi-110049	80,00,000	6,20,863/-
Total unexplained credits			4,33,18,870/-	

5. The assessee submitted before the Ld. CIT(A) that it had received unsecured loans from 26 parties and out of that, amounts received from 10 parties were sought to be doubted by the Ld. AO. The prime essence of the basis of making the addition is that all the loan creditors had received certain amounts into their bank accounts and the same were utilized for advancing loans to the assessee. Infact, the Ld. AO had also examined the source of source of the lenders and the third parties and found that those persons also had received the same amount in its bank account immediately before it was forwarded to the lenders. Accordingly, he concluded that this transaction is nothing but merely layering of funds and accordingly, doubted the genuineness of the transaction. The creditors borrowed the money from somebody and had given loans to the assessee company living minimum balance in their bank accounts and since, the creditors had disclosed the meager income in their Income Tax Returns, the creditworthiness of the lenders were also doubted by the Ld. AO.

6. The assessee submitted all the documents in respect of each of the creditors to prove the identity of the creditor, creditworthiness

of the creditor and genuineness of the transactions. The details of various documents submitted by the assessee are as under:

- (a) Confirmation from the lender
- (b) Bank Statement of the lender
- (c) Ledger Account of the lender
- (d) Bank statement and audited balance sheet of lender and also the parties, who had advanced money to the lenders proving the source of source.
- (e) Evidence to prove that the loan has been repaid to the concerned parties on various dates in subsequent years.
- (f) Name and Address of the lender.
- (g) PAN of the lender.
- (h) Income Tax Returns acknowledgement of the lenders wherever applicable.
- (i) Relationship of the lenders with the assessee.

6.1. The details of the same are as under:-

S No.	Name	Relation	Returned Income	Loan Amount	PAN	Address	Documents filed before A.O. & CIT(A)
1	Krishna Mittal	Niece	ITR Not Filed	8,00,000	AAMPM3678E	A-166, Anupam Apartment, Saidullahjob,	1. Confirmation 2. Bank Statement 3. Statement 4. Bank Statement &

						New Delhi.	Audited Balance Sheet of M/s Express Towers Pvt. Ltd. (showing Source of Loan) Date of Receipt of Rs.8 Lacs: 24 Sep 2014 Date of Repayment of Rs.8 Lacs: 05 June 2015
2	Pankaj Goel	Nephew	14,61,524	80,00,00	AAHPG 5032H	B-177, Greater Kailash-1, New Delhi-110048	1.ITR Acknowledgment 2. Confirmation & Ledger Account 3. Bank Statement 4. Bank Statement & Audited Balance Sheet of M/s Express Towers Pvt. Ltd. (showing Source of Loan) Date of Receipt of Rs.80 Lacs: 31 March 2015 Date of Repayment of Rs.60 Lacs: 09 Apr 2015 Date of Repayment of Rs.20 Lacs: 17 Apr 2015
3	Pramod Kumar Aggarwal	Cousin	9,91,820	50,00,000	ABKPA 6230D	77,SFS Shakti Apartment, Phase-III, Ashok Vihar, New Delhi-110 052	1.ITR Acknowledgment 2. Confirmation & Ledger Account 3. Bank Statement 4. Interest/TDS Documents 5Bank Statment & Audited Balance Sheet of M/s Rajsthan Infratech Pvt. Ltd. (showing Source of Loan) Date of Receipt of Rs.10 Lac s: 12 April 2014 Date of Receipt of Rs.15 Lacs 19 Sep 2014 Date of Receipt of Rs.25 Lacs: 25 Sep 2014 Date of Repayment

							of Rs.50 Lacs: 07 Sep 2015
4.	R C Goel (HUF)	HUF of the Partner	2,45,918	35,18,870	AABHR0361N	M-33, Second Floor Greater Kailash, Part-1, New Delhi-110 048	1. ITR Acknowledgement 2. Confirmation & Ledger Account 3. Bank Statement 4. Interest /TDS Documents Date of Receipt of Rs.33 Lacs:30 Mar 2015 Date of Repayment of Rs.15 Lacs: 15 May 2015 Date of Repayment of Rs.12,18,870:11 June 2015 Date of Repayment of Rs.8 Lacs: 30 June 2015
5.	Rita Aggarwal	Sister in Law	7,66,004	44,00,000	AIFP A8477J	77,SFS Shakti Appartment, Phase-III, Ashok Vihar, New Delhi-110 052	1. ITR Acknowledgement 2. Confirmation & Ledger Account 3. Bank Statement 4. Interest /TDS Documents 5. Reply to Notice issued u/s 133(6) 6. Bank Statement & Audited Balance Sheet of M/s Express Towers Pvt. Ltd. (showing Source of Loan)  Date of Receipt of Rs.10 Lacs:12 April 2014 Date of Receipt of Rs.30 Lacs:19 June 2014 Date of Repayment of Rs.40 Lacs: 10 Sep 2015
6	Mehar Chand	Family Friends	3,69,328	30,00,000	AFHPC 6276L	12, Ground Floor Near Laxmi Nagar, Distt. Centre, Chitra Vihar, New Delhi-	1. ITR Acknowledgment 2. Confirmation & Ledger Account 3. Bank Statement 4. Interest /TDS

						110 092	Document 5. Reply to Notice issued u/s 133(6) Date of Receipt of Rs.30 Lacs: 23 April 2014 Date of Repayment of Rs.30 Lacs: 20 Sep 2017
7	Kamlesh Rani	Family Friends	4,38,655	45,00,000	AAEPR 2550G	12, Ground Floor Near Laxmi Nagar, Distt. Centre, Chitra Vihar, New Delhi-110 092	1.ITR Acknowledgment 1.Confirmation & Ledger Account 3. Bank Statement 4. Reply to Notice issued u/s133(6) Date of Receipt of Rs.45 Lacs: 19 Sep 2014 Date of Repayment of Rs.45 Lacs:20 Sep 2017
8.	Vijay Pratap Singh	Family Friends	1,29,371	35,00,000	AAUPS 2198F	L-20,South Extension-II, New Delhi-110 049	1.ITR Acknowledgement 2.Confirmation & Ledger Account 3. Bank Statement 4.Reply to Notice issued u/s 133(6) 5.Bank Statement & Audited Balance Sheet of M/s Rajhans Infratech Pvt. Ltd. (showing Source of Loan) Date of Receiopt of Rs.35 Lacs: Sep 2014 Date of Repayment of Rs.35 Lacs 12 Sep 2017
9	Vaishali Gupta	Family Friends	4,28,336	30,00,000	BDAPC 3862L	12, Ground Floor Near Laxmi Nagar, Distt. Centre, Chitra Vihar, New Delhi-110092	1.ITR Acknowledgment 2.Confirmation & Legal Account 3. Bank Statement 4.Reply to Notice issued u/s 133(6) 5.Bank Statement & Audited Balance Sheet of M/s Express Towers Pvt. Ltd. (showing Source of Loan) Date of Receipt of Rs.30 Lacs: 19 Spe 2014

							Date of Repayment of Rs.30 Lacs: 20 Sep 2017
10	Ajay Pratap Singh	Family Frieids	6,30,869	80,00,000	AOFPS8270K	I-20, south Extension-II, New Delhi-110 049	1.ITR 2.Acknowledgment 3.Confirmation & Ledger Account 4.Bank Statement 5.Reply to Notice issued u/s 133(6) 6. Bank Statement & Audited Balance Sheet of M/s Express Towers Pvt. Ltd. & M/s Rajhans Infratech Pvt. Ltd. (showing source of Loan) 7. Date of Receipt of Rs.60 Lacs:22 Sep 2014 8. Date of Receipt of Rs.20 Lac: 25 Sep 2014 9. Date of Repayment of Rs.40 Lacs:18 Sep 2015 10. Date of Repayment of Rs.20 Lacs: 21 Sep 2015 11. Date of Repayment of Rs.10 Lacs: 17 Dec 2015 12. Date of Repayment of Rs.10 Lacs: 21 Dec 2015.

7. Further the assessee has sought to discharge the three ingredients of section 68 of the Act viz. identity of the lender, creditworthiness of the lender and genuineness of the transactions in respect of the each of the lender in the following manner:-

**“1. Krishna Mittal (Rs. 8,00,000)**

*Appellant has received a loan of Rs. 8,00,000/- from Krishna Mittal. The appellant has discharges its onus as under: a) Identity Copy of Adhaar card bearing no 473554518098 and having address 166 Anupam Apartment, DDA*

Flat, Saidajab, Maidan Garhi, IGNOU South Delhi 100 068 has already been furnished

b) Genuineness - Loan has been taken on 24.09.2014 vide cheque no 871754 drawn on State Bank of India, Saket Branch New Delhi, vide her saving bank account no. 10825184214 Copy of her bank account along with the confirmation of account has also been furnished

c) Creditworthiness - Even the source of source has been furnished, Krishna Mittal has received Rs.800,000 from M/s Express Towers Pvt. Ltd as refund of old loan, in her bank account on 23.09.2014 and out of this, she has paid to appellant. The copy of bank account of M/s Express Towers Pvt. Ltd with Oriental Bank of Commerce, Hauz Khas Branch has also been furnished during the assessment proceedings Also Audited Balance Sheet of M/s Express Towers Pvt Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs 26.72 Crore & 27.64 Crore 31.03.2016 & 31.03.2017 respectively.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld, ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

## **2. Rita Aggarwal (Rs. 40,00,000)**

Appellant has received a loan of Rs 40,00,000/- from Rita Aggarwal. The appellant has discharges its onus as under 02 Identity Copy of Adhaar card bearing no. 639786214409 and having address 77, SFS Flats, Shakti Apartment, Ashok Vihar Phase-3, West Delhi 100 052 has already been furnished.

b) Genuineness - Loan has been taken on 12.04 2014 & 19 06 2014 vide cheque no. 483865 (RTGS) & 483868 (RTGS) for Rs 10,00,000/ & Rs 30,00,000 respectively drawn on Canara Bank, New Delhi, vide her saving bank account no 1170101061420 with Canara Bank Shakti Nagar Branch Delhi Copy of her bank account along with the confirmation of account has also been furnished Even an interest of Rs 3,60,394 has been paid. The interest income has been duly offered for taxation and a return of income has been filed on 31.08.2015 by electronic mode at s no 750015840310815 Copy of same has been furnished

c) Creditworthiness: Even the source of source has been furnished, Rita Aggarwal has received Rs 30,00,000 from M/s Express Towers Pvt. Ltd as refund of old loan, in her bank account on 16.06.2014 and out of this, she has paid to appellant. The copy of bank account of M/s Express Towers Pvt. Ltd with Allahabad Bank Nehru Place Branch has also been furnished during the assessment proceedings Also Audited Balance Sheet of M/s Express Towers Pvt. Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs 26.72 Crore & 27.64 Crore 31.03.2016 & 31.03.2017 respectively.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

**3. Mehar Chand (Rs. 30,00,000)**

Appellant has received a loan of Rs. 30,00,000/- from Mehar Chand. The appellant has discharges its onus as under:

a) *Identity:* Copy of Adhaar card bearing no. 415490554123 and having address 1929/23, Supra Colony, Near Aggarwal Nursing Home, Thanesar Kurushetra, Haryana 136118 has already been furnished.

b) *Genuineness:* Loan has been taken on 23.04.2014 vide RTGS no SD1125924991 for Rs.30,00,000/- drawn on Punjab National Bank, New Delhi, vide his saving bank account no. 1120000100146880 with ECE House, KG Marg, Branch New Delhi, Copy of his bank account along with the confirmation of account has also been furnished. Even an interest of Rs. 3,04,470/- has been paid. The interest income has been duly offered for taxation and a return of income has been filed on 07.08.2015 by electronic mode at s no. 6495156570815. Copy of same has been furnished.

c) *Creditworthiness:* Even the source of source has been furnished, Mehar Chand has received Rs 30,00,000 from maturity of FDR in his bank account on 23.04.2014 and out of this, he has paid to appellant.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

**4. Kamlesh Rani (Rs. 45,00,000)**

Appellant has received a loan of Rs. 45,00,000/- from Kamlesh Rani. The appellant has discharges its onus as under a) *Identity* Copy of Adhaar card bearing no. 983939196767 and having address Mandi Lalru SAS Nagar, Mohali, Punjab 140501 has already been furnished.

b) *Genuineness-* Loan has been taken on 2.09.2014 vide RTGS no. SD1153271739 for Rs 45,00,000/- drawn on Punjab National Bank, ECE House, KG Marg, New Delhi, vide his saving bank account no. 1120000100145182. Copy of his bank account along with the confirmation of account has also been furnished. A return of income has been filed on 04.09.2015 by electronic mode at s no. 773386570040915 Copy of same has been furnished.

c) *Creditworthiness:* Even the source of source has been furnished, Kamlesh Rani has received Rs 45,00,000/- from refund of earlier loan paid to various person in her bank account and out of this, she has paid to appellant.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even Issue notice to the party, for which reply has been filed by lenders.**

**5. Vijay Pratap Singh (Rs. 35,00,000)**

Appellant has received a loan of Rs. 35,00,000/- from Vijay Pratap Singh. The appellant has discharges its onus as under:

a) Identity: Copy of Adhaar card bearing no. 872347035596 and having address House No. L-20, South Extension Part-2, South Delhi 110 049 has already been furnished.

b) Genuineness- Loan has been taken on 26.09.2014 vide cheque no.512107 for Rs 35,00,000/- drawn on his saving bank account, Copy of his bank account along with the confirmation of account has also been furnished. A return of income has been filed on 05.11.2015 by electronic mode at s no 880033020051115, Copy of same has been furnished.

c) Creditworthiness - Even the source of source has been furnished, Vijay Pratap Singh has received Rs 35,00,000/- from M/s Rajhans Infratech Pvt. Ltd in his bank account on 26.09.2014 and out of this, he has paid to appellant. The copy of bank account of M/s Rajhans Infratech Pvt Ltd with Oriental Bank of Commerce, Basant Lok Vasant Vihar, New Delhi Branch has also been furnished during the assessment proceedings. Also Audited Balance Sheet of M/s Rajhans Infratech Pvt Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs. 48.76 Crore & 57.66 Crore 31.03.2016 & 31.03.2017 respectively.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

**6. Pankaj Goel (Rs. 80,00,000)**

Appellant has received a loan of Rs. 80,00,000 from Pankaj Goel. The appellant has discharges its onus as under:

a) Identity : Copy of Adhaar card bearing no. 923838823244 and having address B- 177, Greater Kailash Part-1, South Delhi 100 048 has already been furnished.

b) Genuineness: Loan has been taken on 04.06.2014 & 31.03.2015 vide bank transfer for Rs. 75,00,000/- & Rs. 80,00,000/- respectively drawn on Allahabad Bank, New Delhi, vide his saving bank account, Copy of his bank account along with the confirmation of account has also been furnished. A return of income has been filed on 21.08.2015 by electronic mode at s no. 688931040210815. Copy of same has been furnished.

c) Creditworthiness: Even the source of source has been furnished, Pankaj Goel has received Rs 75,00,000/- and Rs. 80,00,000/- from M/s Express Towers Pvt. Ltd as refund of old loan in his bank account on 4.06.2014 & 31.03.2015 and out of this, he has paid to appellant. The copy of bank account of M/s Express Towers Pvt. Ltd with Allahabad Bank Nehru Place

Branch has also been furnished during the assessment proceedings. Also Audited Balance Sheet of M/s Express Towers Pvt. Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs. 26.72 Crore & 27.64 Crore 31.03.2016 & 31.03.2017 respectively.

It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.

**7. Pramod Kumar Aggarwal (Rs. 50,00,000)**

Appellant has received a loan of Rs. 50,00,000/- from Pramod Kumar Aggarwal. The appellant has discharges its onus as under:

a) Identity: Copy of Adhaar card bearing no. 535309571288 and having address 77, SFS Flats, Shakti Apartment, Ashok Vihar Phase-III, West Delhi 100 052 has already been furnished.

b) Genuineness: Loan has been taken on 12.04.2014, 19.09.2014 & 25.09.2014 vide bank transfer for Rs 10,00,000/- Rs. 15,00,000/- & Rs 25,00,000/- respectively drawn on Canara Bank, Shakti Nagar Branch, New Delhi 110 007. vide his saving bank account no. 1170101058084, Copy of his bank account along with the confirmation of account has also been furnished. Even a sum of Rs 3,29,474/- has been paid as interest on this loan which has been duly reflected in his return of income filed on 31.08.2015 by electronic mode at s no. 749637110310815 Copy of same has been furnished.

c) Creditworthiness: Even the source of source has been furnished, Pramod Kumar Aggarwal has received Rs 25,00,000/- from M/s Rajhans Infratech Pvt. Ltd as refund of old loan in his bank account on 24.9.2014 and balance Rs. 25,00,000/- has been received from other parties out of this, he has paid to appellant. The copy of bank account of M/s Rajhans Infratech Pvt. Ltd with Oriental Bank of Commerce Basant Lok, Vasnat Vihar Branch has also been furnished during the assessment proceedings. Also Audited Balance Sheet of M/s Rajhans Infratech Pvt. Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs. 48.76 Crore & 57.66 Crore 31.03.2016 & 31.03.2017 respectively.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

**8. RC Goel (HUF) (Rs. 33,00,000)**

Appellant has received a loan of Rs. 33,00,000/- from R C Goel (HUF). The appellant has discharges its onus as under:

a) Identity: Copy of PAN Card bearing no. AABHR0361N along with ITR and having address M-33, 2nd Floor, Greater Kailash Part-1, New Delhi 110 048 has already been furnished.

b) Genuineness Loan has been taken on 30.03.2015 vide cheque no. 043461 drawn on Oriental Bank of Commerce, Hauz Khas Branch, New Delhi 110 016, vide his

saving bank account no. 05622010046300, Copy of his bank account along with the confirmation of account has also been furnished. Even a sum of Rs. 2,18,870/ has been paid as interest on this loan which has been duly reflected in his return of income filed on 30.08.2015 by electronic mode at s no 744710050300815. Copy of same has been furnished.

c) Creditworthiness: Even the source of source has been furnished, R C Goel (HUF) has received Rs 33,00,000/- has been received from other parties out of this, he has paid to appellant. Also note, R C Gool (HUF) has also paid a sum of Rs. 30,50,000/- in AY 2014-15 and the same has boon refunded in AY 2015-16, and again the appellant has received a loan of Rs. 33,00,000/-

It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.

**9. Vaishali Gupta (Rs. 30,00,000)**

Appellant has received a loan of Rs. 30,00,000/- from Vaishali Gupta. The appellant has discharges its onus as under:

a) Identity: Copy of Adhaar card bearing no 670028865822 and having address House No 12, Ground Floor, Chita Vihar, Karkardooma, East Delhi 100 092 has already been furnished,

b) Genuineness: Loan boon taken on 19.09.2014 vido cheque/ RTGS no SD1153139246 for Rs 30,00,000/ drawn on Punjab National Bank, New Delhi, vide her saving bank account no 1120000100145173 at ECE House, KG Marg, New Delhi Branch, Copy of her bank account along with the confirmation of account has also been furnished. A return of income has boon filed on 12.08.2015 by electronic mode at s no 662983220120815 Copy of same has been furnished

c) Creditworthiness: Even the source of source has been furnished, Vaishali Gupta has received Rs 30,00,000/- from M/s Express Towers Pvt. Ltd as refund of old loan in her bank account on 19.09.2014 and out of this, she has paid to appellant. The copy of bank account of M/s Express Towers Pvt Ltd with Allahabad Bank Nehru Place Branch has also been furnished during the assessment proceedings. Also Audited Balance Sheet of M/s Express Towers Pvt Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs. 26.72 Crore & 27 64 Crore 31.03 2016 & 31.03.2017 respectively.

**It is submitted that the appellant has discharges its onus as provided u/s 68 of Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.**

**10. Ajay Pratap Singh (Rs. 80,00,000)**

Appellant has received a loan of Rs. 80,00,000/- from Ajay Pratap Singh. The appellant has discharges its anus as under:

a) Identity: Copy of Passport bearing no 48313322 and having address 706, Mulberry Lane, Somerset PA USA has already been furnished.

b) Genuineness: Loan has been taken on 23.09.2014 vide cheque/ RTGS for Rs. 20,00,000/- drawn on Citi Bank Ltd, New Delhi, Rs 40,00,000/- drawn on HDFC Bank and on 27.09.2014 vide cheque drawn on HDFC Bank, Copy of his bank account along with the confirmation of account has also been furnished A return of income has been filed on 28.08.2015 by electronic mode at a no 732828320280815 Copy of same has been furnished.

c) Creditworthiness: Even the source of source has been furnished, Ajay Pratap Singh has received Rs 20,00,000/- from M/s Rajhans Infratech Pvt. Ltd in his bank account on 26.09.2014 and out of this, he has paid to appellant. The copy of bank account of M/s Rajhans Infratech Pvt Ltd with Oriental Bank of Commerce Basant Lok, Vasant Vihar Branch has also been furnished during the assessment proceedings. Also Audited Balance Sheet of M/s Rajhans Infratech Pvt Ltd duly audited by Chartered Accountants was also filed, which has total equity and liability of Rs.48.76 Crore & 57.66 Crore as on 31.03.2016 & 31.03.2017 respectively.

***It is submitted that the appellant has discharges its onus as provided u/s 68 of the Income Tax Act, and the Ld. ACIT has checked all the documents and even issue notice to the party, for which reply has been filed by lenders.”***

8. It was submitted by the assessee before the Ld. CIT(A) that the Ld. AO had checked and verified the aforesaid documents and even issued summons u/s 131(1A) of the Act to seven parties. All the notices were served and the lenders had duly furnished the entire details that were called for in the summons through their authorized representative. All the persons had duly furnished their reasons for not able to appear before the Ld. AO in person but had furnished the entire details that were called for in the summons. The Ld. CIT(A) deleted the addition by giving the following factual findings, which remain uncontroverted by the Revenue before us:

*“6.2 I have considered the rival submissions of the AR reproduced supra. There is no doubt that all the amounts in the bank accounts of the lender have*

*been taken through the banking channel and the same have been paid from the bank account of the lender to the bank account of the appellant and nowhere any cash has been found deposited in the bank account of the lender. Even the bank account and ledger account of third party has been placed on records which clearly demonstrated that the loan has been sourced from third party as refund of earlier loan paid by the lender to the third party and on request of the lender the same has been refunded by the third party and ultimately the same has been paid to the appellant. The source of the source w.r.t. third party has also been submitted. The audited balance sheet has also been placed on records to prove their credit worthiness. The argument of AO that the amount forwarded to appellant has been received in the bank account just before it was forwarded as loan and therefore the addition has been made does not hold good, as the appellant has proved the source of the source. The argument of AO that no one had attended the proceedings, however, all the details were submitted through their authorized representatives, all the person summoned has given alibis for not being able to attempt personally also don't hold good in view of various judicial pronouncement by courts.”*

9. It is not in dispute that assessee had duly furnished the entire documents to prove the three necessary ingredients of section 68 of the Act as detailed above. It is also not in dispute that all the loans had been duly repaid by the assessee in subsequent years, the details of which are also reflected with dates and amounts in the aforesaid table referred (supra). We find that the Ld. CIT(A) had examined all the details which are placed on record by the assessee and had given categorical finding that the assessee had given details of source of source of the lenders; that the lenders had received back their dues from their parties and had utilized the same for advancing loans to the assessee. This factual finding of the

Ld. CIT(A) has not been controverted by the Revenue before us. This is a case where the assessee had proved all the three ingredients of 68 beyond reasonable doubt by even proving the source of source of lenders. It is also pertinent to note that assessee had indeed paid interest on this loans, which had been duly allowed as deduction by the Ld. AO in the sum of Rs.13,48,011/- , Summons u/s 131(1A) of the Act were issued to be seven parties as identified by the Ld. AO, which were duly served and though the parties did not appear before the Ld. AO but had given explanation in writing the reasons for their absence in person but had duly furnished all the details that were called for by the Ld. AO in the summons through the Authorized Representatives. This fact is also not disputed by the Revenue before us. When the interest payment is allowed as deduction by the Ld. AO on the very same loans, there is absolutely no reason to disbelieve the principal portion of the loan as unexplained credit. In our considered opinion, these facts were duly appreciated by the Ld. CIT(A) while deleting the addition which do not warrant any interference. Accordingly, ground raised by the Revenue is dismissed.

10. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 20<sup>th</sup> October, 2023.

Sd/-

**(CHALLA NAGENDRA PRASAD)**  
**JUDICIAL MEMBER**

Dated: 20/10/2023

*Pk/sps*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI